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Attorneys for Defendant  
Damien Sexton

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	<b>Case No. CR-07-0742 (EDL)</b>
	)	
Plaintiff,	)	NOTICE OF MOTION AND MOTION
vs.	)	FOR PRETRIAL DISCOVERY;
	)	MEMORANDUM OF POINTS AND
DAMIEN SEXTON,	)	AUTHORITIES IN SUPPORT
	)	
Defendant.	)	<b>Date: April 1, 2008</b>
	)	<b>Time: 10:30 a.m.</b>
	)	<b>Dept.: Judge Elizabeth D. Laporte</b>

PLEASE TAKE NOTICE that on April 1, 2008 at 10:30 a.m. or as soon thereafter as the matter may be heard, in the courtroom of the Honorable Elizabeth D. Laporte, defendant Sexton will and hereby does move this Court for an order directing the government to produce pretrial discovery of the following items pursuant Rule 16 of the Federal Rules of Criminal Procedure, and the due process clause of the United States Constitution.

The requests that follow include documents within the possession, custody or control of the government, the existence of which is known or by the exercise of due

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NOTICE OF MOTION AND MOTION FOR PRETRIAL DISCOVERY; MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT

1 diligence may become known to the government, or alternatively documents which  
2 can be easily accessed by the attorneys for the government.

3 This motion is based upon the instant notice, the attached memorandum of  
4 points and authorities in support of this motion, all applicable statutory and case  
5 authority, and such other evidence and arguments that are presented to the Court at  
6 the hearing on this motion.

7 1. Any discovery the provision of which is required under Federal Rule of  
8 Criminal Procedure 16, including (1) The substance of any relevant oral or written  
9 statement made by the defendant and/or the written record of any statement made by  
10 the defendant before or after arrest, in response to interrogation by a person the  
11 defendant knew was a government agent if the government intends to use the  
12 statement at trial; (2) any evidence relating to the past conduct of the defendant,  
13 which the government intends to introduce as evidence at trial whether such  
14 evidence will be offered pursuant to F.R.Evid. 404(b) or pursuant to any other  
15 provision of law; (3) results or reports from any physical or mental examination; and  
16 (4) any other relevant physical and documentary evidence.

17 2. A list including the names and contact information of all passengers of  
18 United Airlines Flight 189 on March 21, 2007, in connection with which the  
19 defendant was arrested.

20 3. Any information from whatever source, form or nature which is  
21 favorable to the defense is required. This request includes information which is  
22 material to the issue of guilt or punishment, either through an indication of the  
23 defendant's innocence, negation of any element of the charge offense, or through the  
24 potential impeachment of government witnesses or contradiction of government  
25 evidence; and all information which may be or become of benefit to the defendant in  
26 preparing for or presenting the merits of his defense at trial.

1           4.     An order that the government have a continuing duty to produce any  
2 and all documents ordered to be prepared by the Court in response to these requests  
3 when they come into the possession of the government or when knowledge of their  
4 existence may be gained by the government through the exercise of due diligence.  
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6 Dated: March 11, 2008

Respectfully submitted,

7 /s/ William L. Osterhoudt, Esq.

8 WILLIAM L. OSTERHOUDT

9 Attorney for Defendant Sexton  
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**PROOF OF SERVICE**

I, the undersigned, declare as follows:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen (18) and am not a party to this action. My business address is 135 Belvedere Street, San Francisco, California 94117.

On the date set forth below, I caused to be served the document entitled:

**NOTICE OF MOTION AND MOTION FOR PRETRIAL DISCOVERY;  
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**

on the party in this action as follows:

Allison Marston Danner  
Assistant United States Attorney  
450 Golden Gate Avenue  
San Francisco, CA 94102  
allison.danner@usdoj.gov

  X   [BY ELECTRONIC SERVICE] Utilizing the ECF system of the United States District Court for the Northern District of California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: March 11, 2008

/s/ Christopher W. Choy  
Christopher W. Choy

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*NOTICE OF MOTION AND MOTION FOR PRETRIAL DISCOVERY; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT*